IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 267 of 1988

The Commissioner of Income Tax ... Applicant.

vs.

Bajaj Tempo Ltd., ... Respondent

Mr. Ashok Kotangale for Applicant.
Mr. B. Vaidya i/b. S.N. Inamdar for Respondent.

CORAM:V.C.DAGA AND A. S. AGUIAR JJ.

Date: 4th July, 2005.

P. C.:

1. The question of law referred to this court for opinion under section 256(1) of the Income-tax Act, by the Tribunal at the instance of the assessee is as follows:

> 1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the contribution of Rs.4,80,000/- is allowable deduction under section 37 of the Income Tax Act , for Assessment Year 1977-78?"

2. The contribution, being the voluntary payment made by the assessee, considering commercial expediency is an allowable deduction under section 37 as held in the judgment of the Division Bench of this court in the case of **Commissioner of Income Tax vs. B.G.Shirke & Co., reported in [2003] 127 TAX,AM 245 (BOM.)**. Following this judgment, we answer the question referred to us in affirmative, i. e. in favour of the assessee and against the Revenue. Reference accordingly stands disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

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